

103105



15866 U.S.PTO

11-1-05
JC04 Rec'd OCT/PTO 31 OCT 2005
#2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: VERN McMILLAN

ART UNIT:

SERIAL NO.: 10/

EXAMINER:

FILED:

P.C.T. APPLICATION NO.: PCT/AU2004/000542

P.C.T. INTERNATIONAL FILING DATE: APRIL 28, 2004

PRIORITY CLAIM: APRIL 28, 2003

TITLE: TRAINING DEVICE FOR GOLFERS

PETITION TO REVIVE ABANDONED APPLICATION
UNDER THE PROVISIONS OF 37 C.F.R. §1.137(b)

Hon. Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, Virginia 22313-1450

11/07/2005 LLANDGRA 00000047 190450 10553768
Dear Sir:
05 FC:2453 750.00 DA

RECEIVED
8 NOV 2005

Legal Staff
International Division

Applicant respectfully petitions the Commissioner for Patents to revive the above-identified patent application, pursuant to 37 C.F.R. §1.137(b), on the ground that such

"Express Mail" mailing label number ER 872805058 US
Date of Deposit October 31, 2005

I hereby certify that this paper is being deposited with the U.S. Postal Service "Express Mail - Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to: Hon. Commissioner for Patents, United States Patent and Trademark Office, P. O. Box 1450, Alexandria, Virginia 22313-1450.

Edwin D. Schindler, Reg. No. 31,459

October 31, 2005

Date

application was unintentionally abandoned (i.e., the entire period of delay in meeting the outstanding requirements due by the 30th-month following Applicant's priority claim for eventual entry into the U.S. National Phase of the above-identified P.C.T. application was unintentional), as a result of an unintentional delay of the undersigned's Australian patent associate advising the undersigned to enter the U.S. National Phase and due to a pending litigation being handled by the undersigned on October 28, 2005.

The above-identified P.C.T. international application, designating the United States, was filed on April 28, 2004, and validly claimed foreign priority on the basis of a patent application filed in Australia on April 28, 2003.

The above-identified P.C.T. international application was, therefore, due for entry into the U.S. National Phase, thirty (30) months from the claimed priority date, or by October 28, 2005. Thus, the above-identified patent application went "abandoned" after October 28, 2005, when the U.S. National Fee was not paid for entry into the U.S. National Phase.

In support of this Petition to Revive, the undersigned attorney-of-record hereby states that Applicant is entitled to claim Small Entity status and Applicant hereby submits:

1. The Petition to Revive fee of \$750.00 (small entity) is being authorized to be charged against the Deposit Account

of Applicant's Attorney, Account No. 19-0450;

2. A proposed response to the outstanding requirement is enclosed, as follows:

(a) Copy of P.C.T. Application No. PCT/AU2004/000542, with International Search Report prepared by the Australian Patent Office;

(b) Authorization to charge the Deposit Account of Applicant's Attorney, Account No. 19-0450, is hereby given for the total amount of \$1,265.00 to cover the following fees:

- (i) Petition Fee of \$750.00 for the Petition to Revive on the ground of unintentional delay in entering the U.S. National Phase;
 - (ii) Basic National Stage Fee of \$150.00 (small entity);
 - (iii) National Stage Search Fee of \$200.00 (small entity; a copy of the ISA/AU International Search Report being enclosed);
 - (iv) National Stage Examination Fee of \$100.00 (small entity); and,
 - (v) Surcharge of \$65.00 (small entity) for the eventual submission of a Declaration executed by Applicant more than 30 months after the claimed priority deadline; and,
- (c) Preliminary Amendment.

A Declaration executed by Applicant and an Information

Disclosure Statement will be filed, in due course. With the concurrent submission of the foregoing documents and authorization to charge Applicant's Deposit Account for the foregoing fees, Applicant respectfully submits that all outstanding requirements for meeting the statutory 30th-month deadline, which expired after October 28, 2005, have now been satisfied.

The Commissioner is hereby authorized to charge the Deposit Account of Applicant's Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the above-identified patent application, but which have not otherwise been provided for.

A duplicate of this Petition is enclosed for billing purposes.

Accordingly, Applicant respectfully submits that all outstanding requirements for meeting the statutory 30th-month deadline for eventual entry of the above-identified P.C.T. international application into the U.S. National Phase, are now satisfied.

I hereby declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine

or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this petition is directed.

It is, therefore, respectfully submitted that the above-identified patent application should be held as being "unintentionally" abandoned, i.e., that the entire period of delay in meeting the requirements due by the 30th-month deadline for eventual entry of the above-identified P.C.T. international application into the U.S. National Phase was unintentional, for the reasons specified herein, and revived under 37 C.F.R. §1.137(b), and that prosecution of the above-identified P.C.T. international application should be resumed and accepted into the U.S. National Phase for an eventual national patentability examination.

Such favorable action is respectfully requested and
earnestly solicited.

Respectfully submitted,

VERN McMILLAN

By


Edwin D. Schindler
Attorney for Applicant
Reg. No. 31,459

Five Hirsch Avenue
P. O. Box 966
Coram, New York 11727-0966

(631)474-5373

October 31, 2005

The Commissioner is hereby authorized to charge the Deposit Account of Applicants' Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the above-identified patent application, but which have not otherwise been provided for.